IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
Jeffery M. Enright, et al.	)	
	)	
Application No.: **09/414,290**	)	Art Unit 3692
	)	
Confirmation No.: **3095**	)	
	)	Patent Examiner
Filed: **October 7, 1999**	) ·	John Scarito
	)	
Title: **Remote Viewing of ATM**	)	
Transaction Records	)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION PURSUANT TO 37 C.F.R. § 1.132

I, Patrick C. Green, hereby declare as follows:

1.   I am a former employee of Diebold, Incorporated and/or InterBold, a wholly owned subsidiary of Diebold, Incorporated (collectively referred to hereafter as "Diebold"). I was employed by Diebold as an engineer and engineering manager in the development of automated banking machines (e.g., ATMs) and associated computer software for those machines. I retired from Diebold in 2007. I began working in the cash dispensing automated banking machine industry in approximately 1974. I am familiar with the aspects of ATM functionality and communication, especially with regard to transactions.

- 1 -

2.   It is my understanding that the present application was filed October 7, 1999 and claims priority to provisional application 60/103,731 filed October 9, 1998. I am familiar with the practical capabilities and uses of both ATMs and systems involving ATMs at the time of October 9, 1998.

3.   Based on my knowledge and experience, a person having ordinary skill in the art of cash dispensing automated banking machines at the time of October 9, 1998 (hereinafter a "person having ordinary skill in the art") would have had a four-year college degree in engineering, such as mechanical or electrical engineering, and would have had at least four years of experience in designing cash dispensing automated banking machines (or equivalent years of working experience in the design of cash dispensing automated banking machines).

4.   The person having ordinary skill in the art, based on prior ATM systems, would *not* have recognized a valid reason to: selectively store images of ATM users based upon the user's selected type of ATM transaction, where images of users involved in one selected type of transaction are stored but images of users involved in a different selected type of transaction are not stored; or selectively store human image data based upon operation of a particular ATM function device, where human image data corresponding to camera signals produced during an ATM transaction are stored in response to operation of the particular device but human image data corresponding to other ATM transactions not involving operation of the particular device are not stored; or store image data in a data store in response to operation of at least one ATM transaction function device in carrying out an ATM transaction function, where the image data corresponds to signals produced by an image device adjacent the ATM.

- 2 -

5.   I have reviewed the Nama (US 4,991,008), Shiota (US 6,337,712) and Java (Java Goes Full Circle) documents cited in the present application. I have also reviewed the Examiner's "Official Notice" comments in the Office Action dated October 1, 2008.

6.   The person having ordinary skill in the art would *not* have recognized from these documents and comments, a teaching, suggestion, motivation, or valid reason for producing a first apparatus that comprises:

> an automated banking machine, wherein the machine can carry out a plurality of transactions selectable by authorized machine users, where the plurality of selectable transactions include a cash dispensing transaction,

>> wherein the machine includes a plurality of transaction function devices, including a first transaction function device and a second transaction function device,

>>> where the machine can carry out a first type of transaction which involves operation of the first transaction function device,

>>> where the machine can carry out, without involving operation of the first transaction function device, a second type of transaction which involves operation of the second transaction function device;

a camera adjacent the machine, where the camera can capture images of machine users;

a computer including a server in operative connection with a data store,

where the computer is in operative connection with the machine and the camera,

where the computer can cause selective storage of images of machine users in the data store based on transaction type,

where the computer causes to be stored in the data store, captured images of respective machine users involved in the first type of transaction,

where the computer prevents from being stored in the data store, images of respective machine users involved in the second type of transaction;

a communication network in operative connection with the server; and

a user terminal in operative connection with the communication network,

where the user terminal is remotely located from the machine,

where the user terminal includes a browser and a display device,

where the user terminal communicates with the server through the browser,

where the user terminal can access from the data store, captured images of machine users, and

where the user terminal can display accessed captured images of machine users through the display device.

The person having ordinary skill in the art would have recognized that there are significant and non-obvious differences between this first apparatus and what is disclosed and suggested in the documents and comments.

7.   The person having ordinary skill in the art also would *not* have recognized from these documents and comments, a teaching, suggestion, motivation, or valid reason for producing a second apparatus that comprises:

an ATM that includes a plurality of function devices, including a cash dispenser device, and can carry out a plurality of transactions;

a camera adjacent the ATM, where the camera can produce camera signals corresponding to a human image;

a computer in operative connection with a data store and the camera,

where the computer can selectively store in the data store, human image data corresponding to produced camera signals which correspond to the human image,

where the computer operates to store in the data store, human image data produced by the camera during a transaction, in response to operation of a particular function device in the ATM during the transaction,

where the computer is operative to store the human image data on a first date,

where the computer prevents storage in the data store of human image data corresponding to camera signals, in response to other transactions carried out by the ATM without operation of the particular function device;

a communication network in operative connection with the data store; and

a terminal in operative connection with the communication network and the data store,

where the terminal is remotely located from the ATM,

where the terminal includes a display device,

where the terminal can receive on a second date different from the first date, human image data retrieved from the data store, and

where the terminal can display images corresponding to the retrieved human image data through the display device.

The person having ordinary skill in the art would have recognized that there are significant and non-obvious differences between this second apparatus and what is disclosed and suggested in the documents and comments.

8.   The person having ordinary skill in the art also would *not* have recognized from these documents and comments, a teaching, suggestion, motivation, or valid reason for producing a third apparatus that comprises:

an ATM that includes a plurality of function devices;

an image device adjacent the ATM, where the image device can produce signals corresponding to images;

a computer including a server in operative connection with a data store,

where the computer is in operative connection with the ATM,

where the computer can at a first time cause image data corresponding to the signals to be included in the data store, responsive to the ATM carrying out an ATM transaction function through operation of at least one transaction function device;

a network in operative connection with the server;

a user terminal remotely located from the ATM and in operative connection with the network,

where the user terminal includes an output device, and

where the user terminal can communicate with the server and can output images corresponding to the image data through the output device at a second time subsequent to the first time.
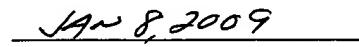
The person having ordinary skill in the art would have recognized that there are significant and non-obvious differences between this third apparatus and what is disclosed and suggested in the documents and comments.

9. The person having ordinary skill in the art additionally would *not* have recognized from these documents and comments, any rationale to produce any of the above noted apparatuses by: combining elements according to known methods to yield predictable results; simple substitution of one known element for another to obtain predictable results; use of known techniques to improve similar devices in the same way; applying known techniques to a known device ready for improvement to yield predictable results; choosing from a finite number of identified, predictable solutions, each with a reasonable expectation of success; known work in one field of endeavor prompting variations of such known work for use in either the same field or a different field based on design incentives or other market forces in a case where the variations would have been predictable to the person having ordinary skill in the art; or some motivation from these documents and comments that would have led the person having ordinary skill in the art to modify these documents to arrive at the noted apparatuses.

10. In conclusion, it would *not* have been obvious to the person having ordinary skill in the art, having full view of the documents and comments, to have produced any of the above noted apparatuses.

11.   I hereby declare that all statements herein of my own knowledge are true, that all statements made on information and belief are believed to be true, and that the statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 U.S.C. § 1001), and may jeopardize the validity of the application or any patent issuing thereon.

_____   Jan 8, 2009

Patrick C. Green   Date